UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,760	04/13/2006	Markus Klumpe	289246US0PCT	5123

22850 7590 07/14/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
KEYS, ROSALYND ANN	

ART UNIT	PAPER NUMBER
1621	

NOTIFICATION DATE	DELIVERY MODE
07/14/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No.	Applicant(s)	
	10/575,760	KLUMPE ET AL.	
	Examiner	Art Unit	
	ROSALYND KEYS	1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 May 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 5-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 5-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Claims 1, 2 and 5-10 are pending.

Claims 1, 2 and 5-10 are rejected.

Claims 3 and 4 are canceled.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 5, 2008 has been entered.

Response to Amendment/Arguments

Rejection of Claims 1-3 and 5-10 under 35 U.S.C. 102(a) as being anticipated by Ruland et al. (WO 03/091190 A1, which is equivalent to US 2005/0170991 A1)

3. Applicant's amendment to claim 1 and arguments, see page 6, line 7 to page 7, line 22, i.e., the second full ¶, filed April 3, 2008, with respect to the rejection(s) of claim(s) 1-3 and 5-10 under 35 U.S.C. 102(a) as being anticipated by Ruland et al. (WO 03/091190 A1) have been fully considered and are persuasive. Therefore, the rejection

has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 35 U.S.C. 103(a) in view of Ruland et al. (WO 03/091190 A1).

Rejection of claims 1-3 and 5-10 under 35 U.S.C. 103(a) as being unpatentable over Dahlgren et al. (WO 94/11331) in view of Dahlgren et al. (WO 94/11330) and further in view of Clement et al. (WO 01/04183 A1)

4. Applicant's amendment to claim 1 and arguments, see pages 8 and 9, filed April 4, 2008, with respect to the rejection of claims 1-3 and 5-10 under 35 U.S.C. 103(a) as being unpatentable over Dahlgren et al. (WO 94/11331) in view of Dahlgren et al. (WO 94/11330) and further in view of Clement et al. (WO 01/04183 A1) have been fully considered and are persuasive. The rejection of claims 1-3 and 5-10 has been withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 2 and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruland et al. (WO 03/091190 A1, which is equivalent to US 2005/0170991 A1).

Ruland et al. disclose the claimed alkoxylate mixture, process for preparing said alkoxylate mixture, and claimed uses of said alkoxylate mixture (see entire disclosure, in particular paragraphs 0001 to 0090, 0214, 0238, 0241 and claims 11, 12 and 15-18 of US 2005/0170991 A1). Ruland et al. teach an alkoxylate mixture of the formula (I) and in particular teach an alkoxylate mixture comprising 79 to 99% by weight, preferably 85 to 96% by weight of alkoxylates A1, in which C_5H_{11} has the meaning n-C_5H_{11} and 1 to 30% by weight, preferably 4 to 15% by weight of alkoxylates A2, In which C_5H_{11} has the meaning $C_2H_5CH(CH_3)CH_2$ and/or $CH_3CH(CH_3)CH_2CH_2$ (see paragraphs 0009-0013 and 0033-0036). Ruland et al. teach that if in addition to ethylene oxide, one or more longer-chain alkylene oxides are used for the alkoxylation, then the different

alkylene oxide radicals can be present in the form of two or more blocks in any order (see paragraph 0041). Ruland et al. teach that in the preparation of mixed alkoxylates, for example, EO and PO is possible and that in this case firstly a PO block can join to the alkanol radical followed by an EO block (see paragraph 0056).

Ruland et al. differ from the claimed invention in that Ruland et al. do not specifically disclose an alkoxylate compound having the claimed formula I where A (ethyleneoxy) and B (propyleneoxy) are present in the form of 4 blocks in the stated sequence. However, Ruland et al. is suggestive of such an alkoxylate, since Ruland et al. teach that if in addition to ethylene oxide, one or more longer-chain alkylene oxides are used for the alkoxylation, then the different alkylene oxide radicals can be present in the form of two or blocks in any order and also discloses that in the preparation of mixed alkoxylates, for example EO and PO, that firstly a PO block can join to the alkanol radical followed by an EO block.

Response to Arguments regarding obviousness of Ruland et al.

9. Applicant's arguments filed April 3, 2008 have been fully considered but they are not persuasive because the claims are directed to an alkoxylate mixture ***comprising (emphasis added)*** alkoxylates of the formula (I). The term comprising allows for the presence of longer chain alkoxylates in addition to those of the claimed formula (I). Further, the fact that Ruland et al. teach that an alkoxylate mixture derived from shorter chain and longer chain alkanols have significantly improved washing behavior is not a teaching away from the claimed invention in light of the fact that the claimed invention does not exclude the presence of longer chain alkoxylates.

For the above reasons and the reasons given in the rejection under 35 U.S.C. 103(a) above the Examiner believes that claims 1, 2 and 5-10 are prima facie obvious over Ruland et al. (WO 03/091190 A1).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROSALYND KEYS whose telephone number is (571)272-0639. The examiner can normally be reached on M, R & F 5:30-7:30 am & 1-5 pm; T & W 5:30 am-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ROSALYND KEYS/
Primary Examiner, Art Unit 1621

July 5, 2008